

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

HAYDER ABDUL HUSSEIN)
ALMOSAWI d/b/a Alnahrain Market &)
Restaurant Corp.,)

Plaintiff,)

v.)

UNITED STATES OF AMERICA,)

Defendant.

No. 3:18-cv-00481

JUDGE RICHARDSON

ORDER

Pending before the Court is a Report and Recommendation of the Magistrate Judge (Doc. No. 28), recommending that the above-captioned action be dismissed without prejudice under Rules 16(f) and Rule 41(b) of the Federal Rules of Civil Procedure. On September 23, 2019, the Government filed a response to the Report and Recommendation, agreeing that the case should be dismissed for the reasons set forth in the Magistrate Judge's Report and Recommendation but also requesting the case be dismissed with prejudice, as the Government is entitled to summary judgment on the merits of the case. (Doc. No. 29). With its response, the Government contemporaneously filed a Motion for Summary Judgment (Doc. No. 30), and a Statement of Undisputed Facts (Doc. No. 32). The Court has reviewed the Report and Recommendation and the file and for the following reasons, the Government's objection (to the extent it actually is an objection) will be overruled.

When a magistrate judge issues a report and recommendation regarding a dispositive pretrial matter, the district court must review de novo any portion of the report and recommendation to which a proper objection is made. Fed. R. Civ. P. 72(b)(1); 28 U.S.C. §

636(b)(1)(C); *United States v. Curtis*, 237 F.3d 598, 603 (6th Cir. 2001). Objections must be specific; a general objection to the report and recommendation is not sufficient and may result in waiver of further review. *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995). In conducting its review of the objections, the district court “may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.” Fed. R. Civ. P. 72(b)(3). The district court is not required to review—under a de novo or any other standard—those aspects of the report and recommendation to which no objection is made. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). The district court should adopt the magistrate judge’s findings and rulings to which no specific objection is filed. *Id.* at 151.

In its response, the Government agrees that this case should be dismissed for the reasons provided in the Report and Recommendation but requests that the case be dismissed *with prejudice* because it is entitled to summary judgment on the merits. The Government does not, however, object to any of the Magistrate Judge’s substantive findings. Therefore, the Government’s response to the Report and Recommendation is more akin to a separate and subsequent motion for summary judgment. The Court will consider the motions in the order in which they were filed. *See Link v. Wabash R.R.*, 370 U.S. 626 (1961) (holding that federal trial courts have the inherent power to manage their own dockets).

So doing, the Court approves (without objection) the Magistrate Judge’s recommendation that this matter be dismissed, exercises its discretion to order (consistent with the Magistrate Judge’s recommendation) that the dismissal be without prejudice, and declines to reach the Government’s later-filed motion for summary judgment, which is now (at least for purposes of this particular civil case file) moot.

Accordingly, the Report and Recommendation (Doc. No. 28) is **ADOPTED and APPROVED**. Plaintiff's claims against the Government are **DISMISSED** without prejudice and the Government's Motion for Summary Judgment (Doc. No. 30) is **DISMISSED** as moot. The Clerk is directed to close the file. This Order constitutes the final judgment in this case for purposes of Fed. R. Civ. P. 58.

IT IS SO ORDERED.


ELI RICHARDSON
UNITED STATES DISTRICT JUDGE